FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4263 OF 2002
IN
FIRST APPEAL (ST) NO. 3750 OF 2001

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. R.A. Thorat, advocate for the Appellant.

CORAM: A.S. OKA, J.

DATE : 31st August, 2004.

P.C.:-

1. This Application is filed by the Appellant in the fist Appeal for setting aside the order of the Additional Registrar of this Court by which registration of the Appeal has been refused for non removal of office objections. The only office objection which was not removed was certified copy of the Decree passed by the Trial Court is not filed. Shri Thorat learend Counsel appearing for the Applicant/Appellant stated that as per

the operative part of the impugned Judgment and Order, the Appellant has been directed to value the Suit at Rs.45,000/- for the purpose of Court fees and jurisdiction. He has been directed to pay the deficit court fees on the basis of valuation of Rs.45,000/-. Shri Thorat submitted that as the said direction given by the learned Counsel is itself in challenge, the Applicant has not paid the deficit court fees.

2. If the Trial Court has found that the Suit filed by the Appellant is not properly valued and if it is found that the deficit court fee is payable by the Appellant, the Appellant has to pay the deficit court fee as per the order without prejudice to his rights and contentions in the Appeal. Even if the deficit court fee is paid, the same will not prevent the Appellant/Applicant from challenging the direction given by the learned Trial Judge as regards payment of deficit court fees and correction of valuation both for court fees and jurisdiction. Decree could not be drawn

by the Trial Court as deficit court fee was not paid by the Appellant.

3. Learned Counsel appearing for the Appellant/Applicant stated that deficit court fees on the basis of valuation of Rs.45,000/- will be paid by him in the Trial Court within a period of one week from today. In view of his statement, case for restoration is made out. Hence, I pass the following order. Civil Application is allowed in terms of prayer clause (a) subject to condition that the Applicant will pay the deficit court fee in the Trial Court on the basis of valuation of Rs.45,000/- within a period of one week from today. If court fee is not paid within the stipulated time, the order of Additional Registrar will stand. It is made clear that the payment of deficit court fee will be without prejudice to the rights and contentions of the Appellant in the First Appeal. The Appellant is directed to file Certified copy of the drawn up decree as and when it is ready.

. Place the First Appeal for

admission as it is on 28th September, 2004.

. All concerned to act on authenticated copy of this order.

SD/-

JUDGE